

REMARKS

The Examiner is thanked for the due consideration given the application.

Claims 1-12 and 16-24 are pending in the application. Support for the amendments to independent claims 1, 3 and 21 can be found in the specification at, e.g., pages 7 and 8. Claims 17-20 and 23 have been amended to improve the language in a non-narrowing fashion.

Statement of Substance of Interview

The Examiners are thanked for graciously conducting a personal interview with the applicant's representative on March 24, 2009. During the interview the Examiners suggested that to overcome the ELLIOTT et al. reference that the claims be amended to recite a comparison step between the serum levels prior to and after administration of β -casein A².

At the end of the interview the Examiners prepared an interview summary. The interview summary has been reviewed, and it appears to accurately reflect the substance of the interview.

Claim Objections

Clams 17-20 and 23 have been objected to as containing informalities. Clams 17-20 have been amended to be free from informalities.

Rejection Under 35 USC §103(a)

Claims 1-12 and 17-24 have been rejected under 35 USC §103(a) as being unpatentable over ELLIOTT et al. (WO 0100047). This rejection is respectfully traversed.

The present invention pertains to a method of reducing the serum levels in a mammal of at least one of a) cholesterol; b) low density lipoprotein (LDL) cholesterol relative to high density lipoprotein (HDL) cholesterol; c) low density lipoprotein (LDL) cholesterol; d) very low density lipoprotein (VLDL) cholesterol; e) apolipoprotein B; and f) triglycerides. The method of the present invention includes orally administering to a mammal a composition comprising β -casein where the β -casein is comprised of at least 95% β -casein A², wherein the serum level of any one or more of a) to f) after administration of the composition is lower than the serum level before administration of the composition.

Distinctions of the invention over ELLIOTT et al. have been made of record in the application. For brevity, these distinctions over ELLIOTT et al. are not repeated here.

However, ELLIOTT et al. do not disclose or infer that the serum level after administration of the composition is lower than the serum level before administration of the composition, as is set forth in the instantly amended independent claims of the present invention. This deficiency of ELLIOTT et al. has been acknowledged in the interview summary of March 24, 2009.

One or ordinary skill and creativity would thus fail to produce a claimed embodiment of the present invention from a knowledge of ELLIOTT et al., and a *prima facie* case of unpatentability has thus not been made.

The present invention also displays unexpected results that would rebut any unpatentability that has been alleged, as has been discussed in the Amendment filed October 22, 2008.

This rejection is believed to be overcome, and withdrawal thereof is respectfully requested.

Conclusion

Prior art cited but not utilized is believed to be non-pertinent to the instant claims.

The objections and rejections are believed to have been overcome, obviated or rendered moot and that no issues remain. The Examiner is accordingly respectfully requested to place the application in condition for allowance and to issue a Notice of Allowability.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Robert E. Goozner/
Robert E. Goozner, Reg. No. 42,593
209 Madison Street
Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573

REG/lrs